

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CLEAMENT FRANCE,

Plaintiff,

-against-

FRED DORCH, BADGE # 11694,
NEW YORK CITY POLICE OFFICER;
LUIS ANGELES, BADGE # 005094,
NEW YORK CITY POLICE OFFICER;
WILLIAM ROJAS, BADGE # 014803,
NEW YORK CITY POLICE OFFICER;
CITY OF NEW YORK,

Defendants.

19-CV-9881 (PGG)

ORDER OF SERVICE

PAUL G. GARDEPHE, United States District Judge:

Plaintiff, currently incarcerated in F.C.I. Allenwood, in White Deer, Pennsylvania, brings this *pro se* action under 42 U.S.C. § 1983, alleging that Defendants violated his constitutional rights. By order dated November 13, 2019, the Court granted Plaintiff's request to proceed without prepayment of fees, that is, *in forma pauperis* (IFP).¹

DISCUSSION

Because Plaintiff has been granted permission to proceed IFP, he is entitled to rely on the Court and the U.S. Marshals Service to effect service. *Walker v. Schult*, 717 F.3d 119, 123 n.6 (2d Cir. 2013); *see also* 28 U.S.C. § 1915(d) ("The officers of the court shall issue and serve all process . . . in [IFP] cases."); Fed. R. Civ. P. 4(c)(3) (the court must order the Marshals Service to serve if the plaintiff is authorized to proceed IFP)). Although Rule 4(m) of the Federal Rules of Civil Procedure generally requires that the summons and complaint be served within 90 days of

¹ Prisoners are not exempt from paying the full filing fee even when they have been granted permission to proceed IFP. *See* 28 U.S.C. § 1915(b)(1).

the date the complaint is filed, Plaintiff is proceeding IFP and could not have served the summons and complaint until the Court reviewed the complaint and ordered that a summons be issued. The Court therefore extends the time to serve until 90 days after the date the summons is issued. If the complaint is not served within that time, Plaintiff should request an extension of time for service. *See Meilleur v. Strong*, 682 F.3d 56, 63 (2d Cir. 2012) (holding that it is the plaintiff's responsibility to request an extension of time for service); *see also Murray v. Pataki*, 378 F. App'x 50, 52 (2d Cir. 2010) ("As long as the [plaintiff proceeding IFP] provides the information necessary to identify the defendant, the Marshals' failure to effect service automatically constitutes 'good cause' for an extension of time within the meaning of Rule 4(m).").

To allow Plaintiff to effect service on Defendants the City of New York and New York City Police Officers Fred Dorch, Badge #11694; Luis Angeles, Badge # 05094; and William Rojas, Badge # 14803, through the U.S. Marshals Service, the Clerk of Court is instructed to fill out a U.S. Marshals Service Process Receipt and Return form ("USM-285 form") for each of these Defendants. The Clerk of Court is further instructed to issue summonses and deliver to the Marshals Service all the paperwork necessary for the Marshals Service to effect service upon these Defendants.

Plaintiff must notify the Court in writing if his address changes, and the Court may dismiss the action if Plaintiff fails to do so.

CONCLUSION

The Clerk of Court is directed to mail a copy of this order to Plaintiff, together with an information package.

The Clerk of Court is further instructed to issue summonses, complete the USM-285 forms with the addresses for the City of New York and New York City Police Officers Fred

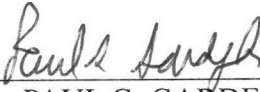
Dorch, Badge #11694; Luis Angeles, Badge # 05094; and William Rojas, Badge # 14803, and deliver all documents necessary to effect service to the U.S. Marshals Service.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore IFP status is denied for the purpose of an appeal. *Cf. Coppedge v. United States*, 369 U.S. 438, 444-45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue).

SO ORDERED.

Dated:

New York, New York
November 20, 2019



PAUL G. GARDEPHE
United States District Judge

DEFENDANTS AND SERVICE ADDRESSES

1. City of New York
New York City Law Department
100 Church Street
New York, New York 10007
2. Fred Dorch, Badge # 11694
New York City Police Department
1 Police Plaza
New York, New York 10007
3. Luis Angeles, Badge # 005094
New York City Police Department
1 Police Plaza
New York, New York 10007
4. William Rojas, Badge # 014803
New York City Police Department
1 Police Plaza
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